



COUNTY OF LOS ANGELES
OFFICE OF THE COUNTY COUNSEL

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MARY C. WICKHAM
County Counsel

March 3, 2016

TO: LORI GLASGOW
Executive Officer
Board of Supervisors

Attention: Agenda Preparation

FROM: JENNIFER A.D. LEHMAN 
Assistant County Counsel
Law Enforcement Services Division

RE: **Benjamin Hernandez v. County of Los Angeles, et al.**
United States District Court Case No. CV 13-06654

Attached is the Agenda entry for the Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation in the above-referenced matter. Also attached is the Case Summary and the Summary Corrective Action for the case.

It is requested that this recommendation, the Case Summary, and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

JADL:scr

Attachments

Board Agenda

MISCELLANEOUS COMMUNICATIONS

Los Angeles County Contract Cities Liability Trust Fund Claims Board's recommendation: Authorize settlement of the matter entitled Benjamin Hernandez v. County of Los Angeles, et al., United States District Court Case No. CV 13-06654 in the amount of \$700,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Sheriff's Department Contract Cities Trust Fund's budget.

This lawsuit concerns allegations of excessive force shooting by Sheriff's Deputies.

CASE SUMMARY

INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	Benjamin Hernandez, et al. v. County of Los Angeles, et al.
CASE NUMBER	CV13-06654
COURT	United States District Court
DATE FILED	September 11, 2013
COUNTY DEPARTMENT	Sheriff's Department
PROPOSED SETTLEMENT AMOUNT	\$ \$700,000
ATTORNEY FOR PLAINTIFF	Anthony O. Egbase A.O.E. Law & Associates, Inc. 350 South Figueroa Street, Suite 189 Los Angeles, California 90071
COUNTY COUNSEL ATTORNEY	Edwin Lewis Principal Deputy County Counsel
NATURE OF CASE	<p>This is a recommendation to settle for \$700,000, the lawsuit filed by Plaintiff Benjamin Hernandez alleging that his federal civil rights were violated when he was falsely arrested and shot by Sheriff's Deputies.</p> <p>The Sheriff's Department contends that the Deputies actions were reasonable under the circumstances.</p> <p>Due to the risks and uncertainties of litigation, a full and final settlement of the case in the amount of \$700,000 is recommended.</p>
PAID ATTORNEY FEES, TO DATE	\$ 91,673
PAID COSTS, TO DATE	\$ 24,414

Case Name: Benjamin Hernandez v. County of Los Angeles, et al.



Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	September 8, 2012, approximately 7:17 p.m.
Briefly provide a description of the incident/event:	<p><u>Benjamin Hernandez v. County of Los Angeles, et al.</u> Summary Corrective Action Plan 2015-048.1</p> <p>On Saturday, September 8, 2012, at approximately 7:17 p.m., two uniformed Los Angeles County deputy sheriffs, assigned to the Los Angeles County Sheriff's Department's Compton Station, were driving a standard, black and white patrol vehicle west on Rosecrans Avenue, east of Santa Fe Avenue, when they stopped at the intersection for a solid red traffic light.</p> <p>While waiting for the traffic light to change, the deputies heard the sound of what they believed to be a traffic collision emanating from the gas station on the southeast corner of Rosecrans Avenue and Santa Fe Avenue. The deputies saw two vehicles adjacent to the gas pumps. The deputies were uncertain if the two vehicles had collided. The driver of a pickup truck (plaintiff) looked in the direction of the two deputies and sped away in a reckless manner and at a high rate of speed.</p> <p>Believing the plaintiff was fleeing the scene of an accident, the deputies made a U-turn and attempted to catch the truck to conduct an enforcement stop. The deputies pulled behind the truck and activated their vehicle's lights and siren to initiate the stop.</p> <p>The plaintiff refused to yield, increased his speed, ran numerous red traffic signals, and drove his truck into oncoming traffic and nearly collided with several motorists. The deputy sheriffs initiated a vehicle pursuit of the plaintiff's vehicle.</p> <p>The plaintiff lost control of his truck and collided with a tree. He exited the truck through the passenger door and fled on foot. The two deputy sheriffs chased the plaintiff on foot. As the plaintiff ran, one deputy sheriff saw him reach towards his waistband and simultaneously look over his right shoulder. The deputy believed the plaintiff was arming himself with a handgun and looking back to acquire target on the deputy sheriffs.</p> <p>Fearing the plaintiff was about to shoot him or his partner, one deputy sheriff discharged his Department-issued duty weapon, striking the plaintiff (Los Angeles County Sheriff's Department Manual of Policy and Procedures section 3-10/200.00 <i>Use Of Firearms And Deadly Force</i>). The plaintiff fell to the ground and was taken into custody.</p> <p>Hospital blood tests revealed that the plaintiff was under the influence of amphetamines and opiates at the time of the incident. As a result, he was</p>

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	<p>charged with Driving Under the Influence (California Vehicle Code section 23152, <i>Driving Offenses Involving Alcohol and Drugs</i>).</p> <p>Subsequent investigation revealed that the vehicle the plaintiff was driving had been reported stolen one day prior. The plaintiff admitted that he backed into another vehicle at the gas station and was an unlicensed driver.</p>
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1. Briefly describe the **root cause(s)** of the claim/lawsuit:

The **primary** root cause in this incident was the plaintiff's failure to yield to and comply with the lawful orders of a Los Angeles County deputy sheriff. As the suspect fled in a vehicle, then on foot, he created a tense, uncertain, and rapidly-evolving situation. When the plaintiff reached for his waistband, a deputy sheriff believed he was arming himself, causing the deputy sheriff to fear for his life and the life of his partner.

2. Briefly describe recommended corrective actions:
(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

The results of the investigation were presented to representatives from the Los Angeles County District Attorney's Office. On June 12, 2013, the Los Angeles County District Attorney's Office concluded that when the deputy sheriff shot the plaintiff, "he acted lawfully in self-defense and in defense of others."

The incident was investigated by representatives from the Los Angeles County Sheriff's Department's Internal Affairs Bureau. On May 13, 2014, the results of the investigation were presented to the members of the Los Angeles County Sheriff's Department's Executive Force Review Committee. The committee concluded the *force* and *tactics* used by the deputy sheriffs were within Department policy.

No other employee misconduct is suspected, and no systemic issues were identified. Consequently, no further personnel-related administrative action was taken, and no other corrective action measures are recommended nor contemplated.

3. Are the corrective actions addressing Department-wide system issues?

- ☐ Yes – The corrective actions address Department-wide system issues.
☒ No – The corrective actions are only applicable to the affected parties.

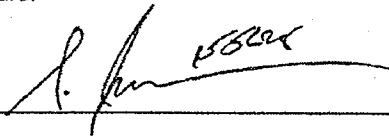
County of Los Angeles
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Los Angeles County Sheriff's Department

Name: (Risk Management Coordinator)

Scott E. Johnson, Captain
Risk Management Bureau

Signature:



Date:

12-30-15

Name: (Department Head)

Karyn Mannis, Chief
Professional Standards Division

Signature:



Date:

12-30-15

Chief Executive Office Risk Management Inspector General USE ONLY

Are the corrective actions applicable to other departments within the County?

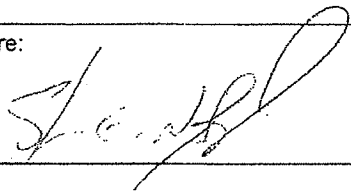
☐ Yes, the corrective actions potentially have County-wide applicability.

☒ No, the corrective actions are applicable only to this department.

Name: (Risk Management Inspector General)

Steven E. MyBlair for Destiny Castan

Signature:



Date:

12-31-15